

REMARKS

Applicants appreciate the detailed examination evidenced by the Office Action mailed November 3, 2006 (hereinafter "Office Action"). Applicants respectfully traverse the rejection of independent Claim 1 as being anticipated by U.S. Patent No. 6,826,036 to Pereira (hereinafter "Pereira"), as Pereira does not disclose or suggest "a plurality of load segment indicators...operative to provide an indication of a loading of the associated load segment output," as recited in Claim 1. Applicants also respectfully traverse the rejections of independent Claims 17, 26, and 35 as unpatentable over Pereira in view of U.S. Published Patent Application No. 3003/0121689 to Rasmussen et al. (hereinafter "Rasmussen"), as the combination does not disclose or suggest several of the recitations of these claims. Applicants further traverse the rejections of the dependent claims. Reasons supporting patentability of the claims are discussed in detail below.

Independent Claim 1 is Patentable

Independent Claim 1 stands rejected under 35 U.S.C. §102 as being anticipated by Pereira. Office Action, page 2. In the rejection of Claim 1, the Office Action states:

Pereira discloses a modular power distribution system for use in computer equipment racks includes controller 120 configured to facilitate a number of remote monitoring and/or remote management and monitoring functions may include load segment control (col. 6, lines 57-68, col. 7, col. 8). The Applicant's claimed indicators and his claimed configuration for the indicators are inherent to controller 120 to perform its load segment control functions.

Office Action, pages 2-3. This argument is erroneous because there is insufficient basis for the claim of inherency relating to the segment loading indication.

Regarding inherency, MPEP § 2112 states:

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of

circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) . . .

"In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original)

The Office Action cites no evidence to support the Office Action's assertion that the "indicators are inherent to controller 120 to perform its load segment control functions" and, therefore, the Office Action fails to meet the requirements for a showing of inherency.

Pereira describes a modular power distribution system for distributing power within an equipment rack. The control unit 120 of Pereira is configured to facilitate remote monitoring and/or remote management or operation functions, which may include:

load segment control (e.g., on/off control), automatic or manual staggered startup of each output from the control unit 120, line status monitoring, line voltage measurements, power consumption monitoring, and other desired management and monitoring functions.

Col., 6, lines 57-66. Pereira recites several functions attributable to the control unit 120 but, segment loading indication is not mentioned. Moreover, segment loading indication is not necessary to any of the functions that are described in Pereira. Thus, Pereira does not expressly or inherently disclose or suggest "a plurality of segment loading indicators," as recited in Claim 1. Accordingly, Pereira does not disclose or suggest all of the recitations of Claim 1 and, for at least these reasons, Applicants submit that Claim 1 is patentable over Pereira.

Independent Claims 17, 26, and 35 are patentable

Independent Claims 17, 26, and 35 are rejected under 35 U.S.C. §103 as unpatentable over Pereira in view Rasmussen. In rejecting Claims 17, 26 and 35, the Office Action states "[i]t is obvious that the **remote monitoring** would include indicators to monitor segments." (*Emphasis added.*) Office Action, page 3. Applicants submit that this argument is erroneous for at least the reasons discussed above, i.e. Pereira does not disclose or suggest segment loading indicators. Moreover, in contrast with indicators, as recited in Claim 17, Pereira describes that the control unit 120 may be monitored or operated from a "remote monitoring

and control node 190 (such as a typical computer device with I/O devices such as keyboards, graphical user interfaces, and the like, with a processor and memory and a **monitor**)."
(*Emphasis added.*) Col. 7, lines 1-4. Thus, in contrast with "a loading indicator coupled to the power output and operative to provide a *visual indication at the second panel* of the housing," as recited in Claim 17, Pereira appears to describe providing a monitor at a remote location. For at least these reasons, Pereira does not disclose or suggest several of the recitations of Claim 17. Accordingly, Pereira and Rasmussen, alone or in combination, do not disclose or suggest all recitation of Claim 17. For at least these reasons, Applicants respectfully submit that Claim 17 is patentable over Pereira in view of Rasmussen.

Claims 26 and 35 are patentable over Pereira in view of Rasmussen for at least the reasons discussed above regarding Claim 17. For example, Claim 26 recites, in part, "[a] UPS comprising...respective segment loading indicators coupled to the respective load segment outputs." As discussed above the remote monitoring function relied upon in the rejection does not disclose or suggest the loading indicators, much less in the recited non-remote configuration. For at least these reasons, Applicants respectfully submit that Pereira and Rasmussen, alone or in combination, do not disclose or suggest all elements of Claim 26 and 35, and that Claims 26 and 35, are, therefore, patentable over Pereira in view of Rasmussen.

The dependent claims are patentable

Applicants submit that dependent Claims 2-16, 18-25, 27-34 and 36-37 are patentable at least by virtue of the patentability of various ones of independent Claims 1, 17, 26 and 35 from which they depend. Consistent with Applicants' discussion above regarding segment loading indication, various ones of the dependent claims include recitations that identify additional features that are not disclosed by Pereira and Rasmussen, alone or in combination. In this regard, various ones of these dependent claims are separately patentable. For example, Claim 2 recites, in part, "at least one of the segment loading indicators is operative to provide an indication of a loading of the associated load segment output with respect to load rating of the associated load segment output." Applicants respectfully submit that Pereira and Rasmussen, alone or in combination, do not disclose or suggest using a segment load rating, much less segment loading indication in the context of a segment load rating.

Further, since segment loading indication is neither expressly nor inherently disclosed by Pereira, an indication of segment loading relative to a load rating is necessarily not disclosed or suggested. For at least these reasons, Claim 2 is separately patentable over Pereira and Rasmussen.

Similarly, Claim 3, which recites, in part, "to provide an indication of a loading of the associated load segment output with respect to a load rating of *a circuit protection device* that protects the associated load segment output," also includes specific features of claimed embodiments. Applicants respectfully submit that Pereira and Rasmussen, alone or in combination, do not disclose or suggest a load rating of *a circuit protection device*, much less indication relative to such a load rating. For at least these reasons, Claim 3 is separately patentable over Pereira and Rasmussen.

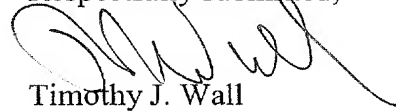
IDS

Applicants appreciate the indication that the references listed in Applicants' Information Disclosure Statement (IDS) submitted July 12, 2005 have been considered.

Conclusion

As all of the claims are now in condition for allowance, Applicants respectfully request allowance of the claims and passing of the application to issue in due course. Applicants urge the Examiner to contact Applicants' undersigned representative at (919) 854-1400 to resolve any remaining formal issues.

Respectfully submitted,



Timothy J. Wall
Registration No. 50,743
Attorney for Applicant(s)

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

In re: Robert W. Johnson, Jr. et al.

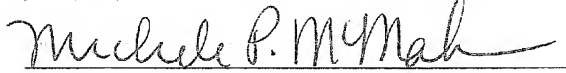
Serial No.: 10/790,604

Filed: March 1, 2004

Page 12

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on March 2, 2007.


Michele P. McMahan